IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11123 of 2001

with

SPECIAL CIVIL APPLICATION No 4309 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? :

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NARMADABEN HIRABHAI

Versus

THE ADMINISTRATOR

Appearance:

1. Special Civil Application No. 11123 of 2001

MS SEJAL K MANDAVIA for Petitioner No. 1-11

MR MURALI N DEVNANI for Respondent No. 1

MRS. PUNANI, AGP for Respondent No. 2-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 23/07/2002

ORAL JUDGEMENT

#. Rule. Mr.Devnani, waives service of rule for respondent No.1 and Mrs.Punani, learned AGP waives service of rule on behalf of respondent Nos.2 and 3. With the consent of the parties, the matter is taken up for final hearing today. In both these matters, common point is involved, and, therefore, the same are heard together and are being disposed of by this common order.

#. The petitioners are the employees of Bantwa Municipal Borough. The petitioners were given higher pay scale by the municipality which was subsequently withdrawn by order at Annexure-A. By the impugned order, the municipality has withdrawn the said benefit relying upon the instruction from the State Government to the effect that, if any benefit of higher pay scale is given without approval of the State Government, such benefit should be discontinued. Ultimately, on the basis of the same, the municipality has passed the aforesaid order dated 8.11.2001 which resulted in filing of these petitions.

#. It is argued by Ms.Mandavia for the petitioners that, before passing the impugned order, the municipality or the Collector has not given hearing worth the name to the petitioners. It is submitted that, if any benefit is to be withdrawn, a person who is likely to be affected by such order, is required to be heard in compliance to the principles of natural justice. It is submitted by Ms.Mandavia that, the higher pay scale was given on the basis of the award of the Labour Court as there is already an order in favour of the employees. However, in my view, since the State Government is the ultimate authority who is required to give sanction to the higher pay scale, naturally, this award will not come to the rescue of the petitioners as ultimately, financial burden is to be borne by the State Government. The said argument, therefore, is not at all relevant. However, important point is that, before passing the impugned order, the Collector should have given hearing to the petitioners because, if any benefit is required to be withdrawn, at least, minimum requirement of the principles of natural justice is required to be observed. Since this has not been observed, only on this limited ground, the impugned order at Annexure-A is required to be set aside.

#. The respondent No.2 is directed to give hearing to the present petitioners before taking any final decision in this behalf, whether higher pay scale granted to the petitioners is required to be withdrawn or not. After hearing the petitioners, appropriate order may be passed

in accordance with law. It is clarified that, this court has not expressed any opinion one way or the other, whether any higher pay scale is required to be given to the petitioners or not and the Collector is free to decide afresh the entire matter on its own merits without being influenced even by the fact that, there is an order in favour of the petitioners by the Labour Court especially when the State Government or the Collector were not the parties before the Labour Court and the same was a consent award. In my view, such award is hardly of any relevance so far as the Collector and the State Government are concerned.

#. In the facts and circumstances of the case, this petition is allowed only on the limited ground of giving hearing to the petitioners. The impugned order at Annexure-A is quashed and set aside. The Collector is directed to take appropriate decision within a period of three months from today. It is for the Collector to decide, whether the pay scale proposed by the municipality is required to be sanctioned or not. Rule is made absolute to the aforesaid extent with no order as to costs. Interim relief granted earlier stands vacated so far as special civil application No.11123 of 2001 is concerned.

(P.B.Majmudar,J)
(pathan)